

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-46, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-46 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1-7, 15-27, and 31-46 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tanaka (US Patent 7,245,678). Claims 8-14 and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanaka in view of Koerner (US Patent 7,049,933). The Applicant respectfully traverses these rejections at least based on the following remarks.

#### **I. Claim Rejection under 35 U.S.C. § 112**

Claims 1-46 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner states the following in the Final Office Action:

Claims 1- 46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended independent claim 1 recites the limitation "the stored information received via each of the plurality of signal paths" in line 5. However

present specification does not disclose that "the stored information received via each of the plurality of signal paths". Present specification discloses that the stored information is generated and stored in the receiver itself. Clarification is required. For the purpose of the art rejection Examiner consider the claim without the amended limitation.

See the Final Office Action at page 2. The Applicant respectfully disagrees and maintains that the above referenced limitation from claim 1 is fully supported by the present specification. For example, the Examiner is referred to Applicant's FIG. 1A and corresponding description in paragraph 30. More specifically, as stated in lines 3-6 on p. 11 of the specification, the processor 106 may determine an estimated received power for all antennas in receiver system 100 and store the values in memory 108. In this regard, the information stored in memory 108 is "received via each of the plurality of signal paths." The signal path selection may then be based on the information stored in memory 108.

Therefore, the Applicant submits that all claims 1-48 comply with the written description requirement and the rejection under 35 U.S.C. § 112 should be withdrawn.

## **REJECTION UNDER 35 U.S.C. § 102**

### **II. Tanaka Does Not Anticipate Claims 1-7, 15-27, and 31-46**

The Applicant first turns to the rejection of claims 1-7, 15-27, and 31-46 under 35 U.S.C. § 102(e) as being anticipated by Tanaka. With regard to the anticipation rejections under 102(e), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

Without conceding that Tanaka qualifies as a prior art under 35 U.S.C. § 102(e), the Applicant traverses the rejection as follows.

#### **A. Rejection of Independent Claims 1, 8, 15, 31, and 39**

With regard to the rejection of independent claim 1 under Tanaka, the Applicant submits that Tanaka does not disclose or suggest at least the limitation of “determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information related to preceding frames, the stored information received via each of the plurality of signal paths,” as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

Regarding claim 1, Tanaka teaches a method for processing signals in a communication system, the method comprising: *determining a signal quality metric for each of a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information for preceding frames (see figure 1, 2, 3 and abstract and column 7, lines 3 - 20 and column 7, lines 55 - 65); assigning a threshold signal quality metric for the plurality of signal paths (see figure 1, 2, 3 and abstract; and discarding a signal path from the plurality of signal paths, if the determined signal quality metric for the signal path does not satisfy the threshold signal quality metric (see figure 1,2, 3 and abstract column 7, lines 3 - 20 and column 7, lines 55 - 65).*

See the Final Office Action at page 3 (emphasis added). Tanaka discloses a receiver unit 6, which uses receiving antennas 2a, 2b to receive a digital modulated signal from a digital wireless microphone. Furthermore, the receiver unit 6 of Tanaka uses a changeover switch 4 to select one of the antennas 2a, 2b in response to a selection signal. See Tanaka at Abstract and Figure 1.

Referring to FIG. 4 of Tanaka, the Applicant points out that the antenna switching between antennas 2a and 2b is done based on the RSSI determination. More specifically, once an antenna is selected, the RSSI is calculated and it is determined in which region (H, M or L in FIG. 3) the RSSI is located. Further signal processing and subsequent antenna switching is based on the RSSI signal determination for a specific antenna. **Even if the RSSI requires determination of the bit error rate (BER) by detecting a plurality of frames, such frames are detected only for the currently selected antenna and only for a given signal**

**path associated with the currently selected antenna. In this regard, Tanaka does not disclose that the RSSI is determined based on stored information that is received via each of the plurality of signal paths for the 2 antennas. In fact, Tanaka does not even disclose that any information received via each of the plurality of signal paths is being stored.**

Therefore, the Applicant maintains that Tanaka does not disclose or suggest at least the limitation of “determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information related to preceding frames, the stored information received via each of the plurality of signal paths,” as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Tanaka and is allowable. Independent claims 8, 15, 31 and 39 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 8, 15, 31 and 39 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-7, 16-24, 32-38, and 40-46**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 8, 15, 31 and 39 under 35 U.S.C. § 102(e) as being anticipated by Tanaka has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-7, 16-24, 32-38, and 40-46 depend from independent claims 1, 15, 31 and 39 and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-7, 16-24, 32-38, and 40-46.

**III. Rejection of Claims 8-14 and 28-30**

Claims 8-14 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Koerner (US Patent 7,049,933). Independent claim 8 is similar in many respects to the method disclosed in independent claim 1. Furthermore, Koerner does not overcome the deficiencies of Tanaka as it relates to the above argument for the allowability of claim 1. Therefore, the Applicant submits that independent claim 8 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1. Additionally, since the additional cited reference (Koerner) does not overcome the

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deficiencies of Tanaka, claims 9-14 and 28-30 depend from independent claims 8 and 15, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-14 and 28-30.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-46 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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